

## Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY CAIRO PRIORITY

AMEMBASSY ROME

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FOR STYLES

FOLLOWING REPEAT LONDON 14153 ACTION SECSTATE DTD 12 SEP

QTE

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E.O. 11652: N/A

TAGS: EAIR, UK

SUBJ: CIVAIR - PANAM COMMISSION PROBLEM

REF: STATE 216469

1. SUMMARY: DEPT. OF TRADE HAS REJECTED COMPROMISE PROPOSAL CONTAINED IN DRAFT PANAM LETTER. EMBASSY AGREES WITH DEPARTMENT'S SUGGESTION THAT WE PUT VIEWS IN WRITING TO UK BUT RECOMMENDS IT TAKE FORM OF DIPLOMATIC NOTE WHICH WOULD INCLUDE FORMAL OFFER TO SUBMIT ISSUE TO ARBITRATION. EMBASSY ALSO RECOMMENDS THAT ASST. SECRETARY ENDERS RAISE ISSUE WITH FCO MINISTER OF STATE ENNALS WHEN LATTER CALLS ON ENDERS IN WASHINGTON. END SUMMARY.

2. PANAM HAS NOW RECEIVED FROM DEPARTMENT OF TRADE (BROWN) A WRITTEN REPLY TO PANAM'S DRAFT RESPONSE TO LIMITED OFFICIAL USE

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DOT LETTER OF AUGUST 11 ORDERING AIRLINE TO COMPLY IN

UK AND THIRD COUNTRIES WITH COMMISSION RATES PRESCRIBED BY SECSTATE FOR TRADE. DOT HAS TOLD PANAM THAT ITS DRAFT DOES NOT DEAL SATISFACTORILY WITH ASSURANCES THAT DOT HAS ASKED FOR. ALTHOUGH DOT LETTER DOES NOT SO STATE, DIFFICULTY WITH PANAM'S DRAFT IS ITS SUGGESTION THAT ALL AIRLINES BE BROUGHT INTO LINE SIMULTANEOUSLY ON COMMISSIONS PAID IN UK AND PANAM'S FAILURE TO PROVIDE ASSURANCE WITH REGARD TO COMMISSIONS PAID OUTSIDE UK TERRITORY. COPY OF DOT LETTER HAS BEEN SENT DEPARTMENT.

3. PANAM INFORMS US THAT THEY NOW INTEND REPLY TO AUGUST 11 DOT LETTER GIVING ASSURANCES THAT CARRIER WILL COMPLY WITH COMMISSION RATE DIRECTIVE ON ALL TICKET SALES IN UK TERRITORY BUT SAYING NOTHING WITH REGARD TO SALES OUTSIDE UK. PANAM HOPES THAT POSITIVE SOUNDING REPLY MIGHT SATISFY DOT AND LATTER MIGHT NOT PRESS EXTRA-TERRITORIAL ASPECTS OF THE PROBLEM. GIVEN THE HISTORY OF THIS CONTROVERSY, WE ARE NOT SANGUINE THAT PANAM TACTIC WILL WORK BUT WE FAIL TO SEE WHAT OTHER COURSE OF ACTION MIGHT BE FEASIBLE SHORT OF CAVING IN COMPLETELY TO BRITISH IN A WAY WHICH COMPROMISES U.S. INTERPRETATION OF BILATERAL AGREEMENT.

4. IN OUR VIEW, PANAM POSITION IS UNTENABLE SINCE IT IS CAUGHT BETWEEN CONFLICTING POSITIONS OF THE TWO GOVERNMENTS. UKG, FOR ITS PART, IS ALSO IN AN AWKWARD POSITION HAVING ORDERED CARRIER TO PROVIDE SPECIFIC ASSURANCES, IT CANNOT VERY WELL SETTLE FOR LESS WITHOUT LOSING FACE EVEN THOUGH THERE IS GROWING RECOGNITION OF THE FACT THAT AS A GOVERNMENT IT LACKS THE MACHINERY (AND AUTHORITY) REQUIRED FOR EFFECTIVE ENFORCEMENT OF COMMISSIONS PAID OUTSIDE UK.

5. IN THESE CIRCUMSTANCES, WE FULLY ENDORSE DEPARTMENT'S SUGGESTION THAT USG AGAIN PUT ITS VIEWS ON PROBLEM FORMALLY AND IN WRITING TO UKG. WE RATHER DOUBT, HOWEVER THAT LETTER TO ROGERS WOULD HAVE MUCH EFFECT. WE HAVE ALREADY DISCUSSED ISSUE WITH ROGERS AT LENGTH BOTH IN WASHINGTON AND HERE AND HE MUST THEREFORE FULLY UNDERSTAND U.S. VIEWS ON THIS SUBJECT. NEVERTHELESS, HE HAS LIMITED OFFICIAL USE

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THUS FAR SHOWN NO INCLINATION TO BACK DOWN FROM OR EVEN COMPROMISE ON POSITION HE HAS TAKEN AND WE DOUBT THAT HE WILL UNLESS FORCED TO DO SO BY PRESSURES FROM OTHER PARTS OF UKG. WE WOULD RECOMMEND, THEREFORE, THAT U.S. WRITTEN SUBMISSION AGAIN TAKE FORM OF DIPLOMATIC NOTE TO BE DELIVERED TO FCO. GENERAL THRUST OF PROPOSED TEXT CONTAINED PARA 2 REFTEL APPEARS TO BE ABOUT RIGHT FOR OUR REPRESENTATIONS ALTHOUGH, OF COURSE, IT WOULD HAVE

TO BE MODIFIED IN CERTAIN RESPECTS TO BE SUITABLE FOR  
SUBMISSION AS A NOTE. /WE WOULD LEAVE LANGUAGE FOR SUCH  
A NOTE LARGELY TO DISCRETION OF DEPARTMENT BUT WOULD  
CERTAINLY RECOMMEND IT (A) PROTEST DISCRIMINATION  
AGAINST PANAM AND (B) REAFFIRM UNACCEPTABILITY OF EXTRA-  
TERRITORIAL APPLICATION OF UK AUTHORITY AND WARN, AS  
FIRST NOTE DID, THAT UNILATERAL ACTION AGAINST U.S.  
CARRIER COULD HAVE SERIOUS CONSEQUENCES.

6. WE ALSO STRONGLY RECOMMEND THAT NOTE INCLUDE A FORMAL  
OFFER TO SUBMIT QUESTION OF WHETHER COMMISSIONS ARE  
COVERED BY AIR SERVICES AGREEMENT TO ARBITRATION PROVIDED  
NO ACTION IS TAKEN AGAINST PANAM WHILE ARBITRATION IS  
UNDERWAY. PURPOSE OF ARBITRATION OFFER, OF COURSE, IS  
TO TRY TO DEFUSE THE ISSUE AND, HOPEFULLY, TO AFFORD THE  
UKG A FACE-SAVING WAY OUT OF A POSSIBLE CONFRONTATION.  
WE DO NOT KNOW WHETHER UK WOULD ACCEPT SUCH AN OFFER  
BUT IT SEEMS TO US TO BE WORTH A TRY AND WOULD, IN ANY  
EVENT, DEMONSTRATE THAT U.S. ACTING IN GOOD FAITH TO  
TRY TO RESOLVE A CONTENTIOUS PROBLEM.

7. WE UNDERSTAND THAT DAVID ENNALS, MINISTER OF STATE,  
FCO, WILL BE CALLING ON ASSISTANT SECRETARY ENDERS  
DURING HIS VISIT TO WASHINGTON ON SEPTEMBER 17.

ENNALS WAS FCO OFFICIAL WHOM MINECONCOM  
CALLED UPON MAY 15 TO DELIVER FIRST NOTE OF PROTEST ON  
COMMISSION ISSUE AND THEREFORE HE IS FAMILIAR WITH THE  
PROBLEM. WE WOULD RECOMMEND, THEREFORE, THAT ASST.  
SECRETARYENDERS RAISE THE MATTER WITH HIM WITH A VIEW  
TO TRYING TO FIND SOME WAY TO DEFUSE THE SITUATION.

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** DISPUTES, AIR FARES, INCENTIVE WAGE SYSTEMS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 16 SEP 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** CunninFX  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
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**Document Unique ID:** 00  
**Drafter:** EB/OA/AVP:SKEITER  
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**Executive Order:** N/A  
**Errors:** N/A  
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**TAGS:** EAIR, UK, PANAM  
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